

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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BRICKLAYERS INSURANCE AND WELFARE  
FUND, BRICKLAYERS PENSION FUND,  
BRICKLAYERS SUPPLEMENTARY ANNUITY  
FUND, BRICKLAYERS AND TROWEL TRADES  
INTERNATIONAL PENSION FUND, NEW YORK  
CITY AND LONG ISLAND JOINT  
APPRENTICESHIP AND TRAINING FUND,  
INTERNATIONAL MASONRY INSTITUTE,  
SANTO LANZAFAME in his fiduciary capacity  
as administrator, BRICKLAYERS LOCAL 1,  
INTERNATIONAL UNION OF BRICKLAYERS  
AND ALLIED CRAFT WORKERS, and  
BRICKLAYERS LABOR MANAGEMENT  
RELATIONS COMMITTEE,

Plaintiffs,

05 CV 4778 (SJ) (VVP)

- against -

**ORDER**

DAVID & ALLEN CONTRACTING, INC.  
and ALLEN FREEMAN,

Defendants.

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JOHNSON, Senior District Judge:

Before the Court is a Report and Recommendation ("the Report"), prepared by

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Magistrate Judge Victor V. Pohorelsky<sup>1</sup> in response to an order of this Court.<sup>2</sup>

Magistrate Judge Pohorelsky filed the Report on September 19, 2007, and provided the parties 10 days upon receipt of the Report to file any objections. No objections have been filed.

A district court judge may designate a magistrate judge to hear and determine certain motions pending before the Court and to submit to the Court proposed findings of fact and a recommendation as to the disposition of the motion. See 28 U.S.C. § 636(b)(1). Within 10 days of service of the recommendation, any party may file written objections to the magistrate's report. Id. Upon *de novo* review of those portions of the record to which objections were made, the district court judge may affirm or reject the recommendations. Id. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. See Thomas v. Arn, 474 U.S. 140, 150 (1985).

As mentioned, no objections were filed within the allotted time period. Therefore, this Court adopts and affirms the Report in its entirety and orders that (1) the claims against Allen Freeman be dismissed, (2) the motion for default judgment as to David & Allen Contracting, Inc., be granted as to liability, but the application for

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<sup>1</sup> The Court thanks Judge Pohorelsky for his work in this regard.

<sup>2</sup> Familiarity with the facts and procedural posture of the case are presumed.

damages be denied with leave to reopen based on appropriate further submissions to cure the deficiencies discussed above, and (3) pending further submissions by the plaintiffs, no award shall be awarded with respect to the plaintiffs' applications for interest, liquidated damages, attorney's fees, and costs.

SO ORDERED.

S/ Sterling Johnson, J

Dated: October 4, 2007

Brooklyn, NY

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Senior U.S.D.J. 